



PLANNING SERVICE

WHISTLEBLOWING POLICY & PROCEDURE

April 2010

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SECTION1

1. Introduction

- 1.1 The Planning Service is committed to the highest possible standards of openness, probity and accountability in the delivery of its services. It is essential that staff, customers, stakeholders, and the public have confidence in their dealings with the Agency and know that any serious concerns about wrongdoing they may raise will be handled appropriately. Whilst the Agency has put in place a wide range of rules, regulations, procedures and codes of practice to deliver its commitments, unfortunately malpractice, abuse or wrongdoing may occur.
- 1.2 The Planning Service will not tolerate malpractice, abuse or wrongdoing and will take appropriate action to address all such issues which arise. This whistleblowing policy has been introduced by the Agency to encourage and enable individual members of staff and members of the public to raise concerns about malpractice, abuse or wrongdoing at an early stage and in the right way, without fear of victimisation, discrimination or disadvantage. The policy will help individuals to raise concerns directly with the Agency or with the Department of the Environment. It also provides guidance should staff or members of the public wish to raise their concerns outside the Agency or Department
- 1.3 This policy is **not** about how the more routine types of complaints made to Planning Service will be handled. It does not therefore replace the Agency's existing complaints procedure which deals with, for example, complaints from customers on how we have handled enquiries or correspondence, or how quickly we have processed planning applications. It does not deal with dissatisfaction with the outcome of planning decisions as there is a separate, independent appeals procedure for appealing decisions to the Planning Appeals Commission. Nor does it deal with individual staff grievances, which should be handled through the established NICS Grievance Procedures.
- 1.4 This policy is concerned with tackling wrongdoing, abuse and malpractice in the organisation, such as actions which are illegal or immoral, or represent a threat to health & safety or, security, or are contrary to the public interest, such as corruption or fraud. This policy provides a means by which staff and the general public can raise issues of concern in these areas.

2. Public Interest Disclosure (NI) Order 1998

2.1 The Public Interest Disclosure (NI) Order provides protection to any member of staff who makes a disclosure of information, which, in the reasonable belief of the individual making the disclosure, tends to show one or more of the following:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health and safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged.

2.2 Staff are protected by this law if they genuinely believe that misconduct or malpractice was, or is being committed. If you raise a genuine concern under these arrangements, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in good faith, it does not matter if you are mistaken. Of course, this assurance does not extend to someone who maliciously raises a matter they know to be untrue.

3. What is Malpractice, Abuse and Wrongdoing?

3.1 Malpractice, abuse and wrongdoing can include a range of issues, some of which are listed below:

- any unlawful act, whether criminal (e.g. theft) or a breach of the civil law (e.g. slander of libel);
- failure to safeguard personal and/or sensitive information and/or the subsequent misuse of such information;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment (e.g. pollution)
- the unauthorised use of public funds (e.g. expenditure for improper purpose);
- fraud and corruption (e.g. to solicit or receive any gift/reward as a bribe);
- abuse of power (e.g. bullying/harassment);
- other unethical conduct.

3.2 This is not a comprehensive list but is intended to illustrate the sort of issues that may be raised under this policy.

- 3.3 The procedures set out in this policy are additional to the Agency's Anti-Fraud Policy and Fraud Response Plan. If a member of staff is concerned about a possible fraud, they may wish to refer to the above mentioned fraud documents which can be found on the Planning Service intranet site.

4. Our Assurance to You

Protection

- 4.1 The Planning Service is committed to making whistleblowing work. Individuals who raise a genuine concern under this policy will not be at risk of losing their job or position or suffer any form of retribution as a result, except where the individual has been complicit in the commission of the offence (either by direct action or the failure to act when they become aware of the offence).
- 4.2 Whilst the Planning Service encourages the submission of all genuine disclosures it will nevertheless view very seriously any false and malicious allegations that are made under this policy. The Agency will regard such allegations by any member of staff as a serious offence.
- 4.3 The Planning Service will not tolerate the harassment or victimisation (including informal pressures) of anyone who raises a genuine concern and will take appropriate action to protect individuals who raise a concern in good faith. With these assurances, we encourage individuals to raise their concerns through these procedures.

Confidentiality

- 4.4 The Planning Service will treat all disclosures made through the whistleblowing policy in a confidential and sensitive manner. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.
- 4.5 Any individual member of staff who believes they are being penalised for raising a concern, should refer to the NICS Grievance Procedure.

Anonymity

- 4.6 We encourage you to put their name to the allegation whenever possible as without this it is difficult to investigate a matter and to corroborate facts. It is then possible to clarify any ambiguous information or to ask for additional information or evidence to support the allegation. Where a whistleblower remains anonymous, the Planning Service will be less able to protect your position or to give feedback on the outcomes of any action taken. Concerns expressed anonymously can therefore be more difficult to investigate but will still

be pursued and considered by the Agency. In considering anonymous allegations the Agency will take into account factors such as the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

5. How Staff can Raise a Concern within the Agency or Department

Step One

- 5.1 Any concerns that staff may have can be raised orally or in writing with their Line Manager or their Line Manager's immediate manager in the first instance. If an individual feels unable to raise the matter with either of them, then the Head of Branch/Division is the next point of contact. Those who wish to make a written statement should set out the background and history of the issue (giving relevant dates) and the reasons for their particular concern. The earlier a concern is expressed the easier it will be to take action. **If in Doubt – Raise it.**
- 5.2 A person does not need to have firm evidence of malpractice before raising a concern and the Planning Service will not expect an individual to prove that their concern is true. However, it will be necessary to demonstrate to the person to whom the concern is reported that there are reasonable grounds for the issue to be raised. Therefore, the individual can expect to be asked to explain as fully as possible the information or circumstances that gave rise to their concerns.

Step Two

- 5.3 If the above channels have been followed/considered and an individual;
- Still has concerns; or
 - reasonably believes that they will be victimised if they raise the matter locally; or
 - believes that disclosure will result in the destruction of evidence; or
 - feels that the matter is so serious that they cannot discuss it with their Line Manager, their Line Manager's immediate Manager or Head of Branch/Division.

they should contact one of the following:

- Dean Blackwood
Planning Service Audit Team
DoE Finance and Business Planning Division
Telephone: (028) 90 416727 (ext 85727)
E-mail: dean.blackwood@doeni.gov.uk

- Marianne Fleming
Director of Corporate Services
Telephone: (028) 90 416994 (ext 85994)
E-mail: marianne.fleming@doeni.gov.uk
- Chris Wilson, DOE HR Business Partner
Telephone: (028) 9054 1015
E-mail: chris.wilson@doeni.gov.uk (ext 41015)
- Jennifer Campbell / Linda Drysdale Head of Internal Audit
Telephone: (028) 9054 7888 (ext 47888)
E-mail: Jennifer.campbell@doeni.gov.uk
Linda.drysdale@doeni.gov.uk

Step Three

5.4 If these channels have been followed and the individual still has concerns, or they feel the matter is so serious that they cannot discuss it with any of the above, they should raise their concerns directly with:

- Cynthia Smith
Chief Executive Planning Service
Telephone: (028) 90 416553 (ext 85533)
E-mail: cynthia.smith@doeni.gov.uk

OR

- Leo O'Reilly
DoE Permanent Secretary
Telephone: (028) 9054 0002 (ext 40002)
E-mail: leo.oreilly@doeni.gov.uk

6. How We Will Handle the Matter

6.1 Once you have told us of your concern, we will look into it to assess initially what action should be taken. This may involve an informal review, an internal inquiry or a more formal investigation. Where it is decided that a formal investigation is necessary, the overall responsibility for the investigation will lie with a nominated Investigating Officer. In any event, we will tell you who is dealing with the matter, how you can contact him/her, and whether your further assistance may be needed. If you specifically request it, we will write to you summarising your concern and setting out how we propose to handle the investigation of it. It may be necessary to arrange a meeting with you and if you wish you can be accompanied by a Trade Union representative or a work colleague

- 6.2 When you raise the concern, you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, we would ask that you tell us at the outset. If your concern falls more properly within the NICS Grievance Procedure, we will tell you.
- 6.3 We will give you as much feedback as we properly can, and, if requested, we will confirm it in writing. However, we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.
- 6.4 Where it is considered appropriate, the matters raised may be referred by Planning Service or the Department to external agencies to investigate e.g. PSNI, NIAO or through some other form of independent inquiry. The Head of Corporate Services/Head of Internal Audit or another appropriately appointed employee of the Department will advise you of the situation. We will take steps to minimise any difficulties that you may experience as a result of raising the concern. If you are required to give evidence in criminal or disciplinary proceedings, the Agency will arrange for you to receive advice about the procedure.

7. Independent advice

- 7.1 If you are unsure whether or how to raise a concern, or if you want confidential advice at any stage, you may contact your Trade Union. You may also contact the independent charity Public Concern at Work

Public Concern at Work
Suite 306
16 Baldwin's Gardens
London
EC1N 7RJ

Tel: 020 7404 6609
Website: www.pcaw.co.uk
E-mail: whistle@pcaw.co.uk

PCaW lawyers can provide free confidential advice at any stage about how to raise a concern about serious malpractice at work.

8. External disclosures

- 8.1 While we hope we have given you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body. In fact, we would rather you raise a matter with the appropriate regulator – such as the Northern Ireland Audit Office or the Health & Safety Executive of Northern Ireland - than not at all. Public Concern

at Work (or your union) will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

9. NI Civil Service Code of Ethics

9.1 If you believe you are being required to act in a way which conflicts with the core values and standards set out in the Civil Service Code of Ethics, or have become aware of the actions of others which you believe conflict with the Code, you should raise the matter with one of the nominated officers listed above.

9.2 Alternatively, if your concern is about a breach of the Civil Service Code of Ethics you may wish to raise your concerns directly with the Civil Service Commissioners for Northern Ireland. While it is the Commissioners' preference that issues under the Code of Ethics are raised, in the first instance, internally within the relevant Department, there may be circumstances when Commissioners would accept an appeal without this having occurred. Commissioners will examine each case on its own merits.

9.3 The Commissioners' address is:

Office of the Civil Service Commissioners for Northern Ireland
5th Floor
Windsor House
9-15 Bedford Street
Belfast
BT2 7SR
(Tel: 02890 549151)

SECTION 2

10. Complaints from the General Public

- 10.1 If you are a member of the public and you wish to raise a concern about how we have handled enquiries or correspondence, or how quickly we have processed planning applications. You should in the first instance raise your concerns through the Agency's Customer Complaint Procedure which can be found on Planning Service website
- Planning Service: www.planningni.gov.uk
- 10.2 If you have submitted a planning application and are dissatisfied with the decision, there is a separate, independent appeals procedure for appealing decisions to the Planning Appeals Commission.
- Planning Appeals Commission <http://www.pacni.gov.uk>
- 10.3 If however, you wish to contact us about alleged wrongdoing, corruption, fraud and malpractice within the organisation, you should write directly to:
- Marianne Fleming
Director of Corporate Services
Telephone: (028) 90 416994 (ext 85994)
E-mail: marianne.fleming@doeni.gov.uk
 - Cynthia Smith
Chief Executive Planning Service
Telephone: (028) 90 416553 (ext 85533)
E-mail: cynthia.smith@doeni.gov.uk
- OR**
- Leo O'Reilly
DoE Permanent Secretary
Telephone: (028) 9054 0002 (ext 40002)
E-mail: leo.oreilly@doeni.gov.uk
- 10.4 As previously stated, Planning Service takes all allegations of fraud and corruption very seriously and will ensure that any reports of such activity will be fully investigated and appropriate action taken. If you have any such concerns it would be important to act quickly to report these, providing as much information or evidence to support your allegations. Planning Service will act to facilitate and enable you to raise genuine concerns about wrongdoing. It should be noted that the Public Interest Disclosure (NI) Order 1998, referred to at paragraph 2, only affords protection to internal staff who raise concerns of wrongdoing. However, any concerns raised externally by the public will be treated, where possible, with the strictest of confidence. If your

claims lead to criminal proceedings, there may be the expectation for you, as complainant, to give evidence in a court of law.

- 10.5 If you have reported wrongdoing we will tell you who is dealing with the matter, how you can contact him/her, and whether your further assistance may be needed. If you specifically request it, we will write to you summarising your concern and setting out how we propose to handle the investigation of it. We will give you as much feedback as we properly can, and, if requested, we will confirm it in writing. However, we may not be able to tell you the precise action we take where this would infringe a duty of confidence owed by us to someone else.

SECTION 3

11. Records

- 11.1 Records of concern raised, including the outcome shall be maintained for a minimum of ten years after the closure of the case, by the Director of Corporate Services and/or Head of Internal Audit. All such records shall be maintained in a confidential and secure environment.

12. Awareness Training

- 12.1 The Planning Service will communicate regularly to all existing members of staff and Board Members the avenues open to them under this policy and new staff will be made aware of this policy through induction training.

13. Review of this Policy

- 13.1 This policy will be reviewed at minimum intervals of 2 years or when required by the Agency.

ANNEX A

DEALING WITH WHISTLEBLOWING CONCERNS: GUIDANCE FOR SENIOR MANAGERS

All reports about actual or perceived wrongdoing in the workplace, whether raised orally or in writing, must be treated seriously. The manager with whom the concern is raised should:

- agree the facts and grounds on which the concern rests;
- establish the evidence;
- identify any personal interest which the whistleblower might have in the issue concerned;
- take immediate action if the alleged wrongdoing involves a risk or danger to others (eg on health and safety grounds);
- carry out investigations promptly, sensitively and as discreetly as possible;
- ascertain whether any other staff had raised similar concerns in the past;
- obtain reports from witnesses (if any);
- ensure that, other than in the case of formal reports under the Code of Ethics, a written response is provided to the whistleblower within 10 working days; and
- advise the whistleblower of any proposed remedial action resulting from his/her concern.